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| 09/613,679      | 07/11/2000  | Gerard J. Barry      | 2270-010            | 1238             |

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|---------------|--------------|
| COLBERT, ELLA |              |
| ART UNIT      | PAPER NUMBER |
| 3624          |              |

DATE MAILED: 06/01/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                                      |   |  |
|------------------------------|--------------------------------------|---|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>09/613,679 | <b>Applicant(s)</b><br>BARRY, GERARD J. |  |
|                              | <b>Examiner</b><br>Ella Colbert      | <b>Art Unit</b><br>3624                 |  |

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 March 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1, 3-8, 10, 12--23, 25-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 10, 12-23, 25-40 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 1, 3-8, 10, 12-23, and 25-40 are pending. Claims 1, 3, 4, 6-8, 10, 12, 15, 16, 23, 256, 26, 28-32, 36, and 37 have been amended in this communication filed 03/20/06 entered as Response After Non-Final Action and Request for Extension of Time.
2. The 35 USC 112 second paragraph rejection of Claims 1, 3, 10, 12, 23, 25, and 37 have been overcome by Applicant's amendment and the rejection is hereby withdrawn.
3. The claims objections to claims 4 and 26 have been overcome by Applicant's amendment to claims 4 and 26 and is hereby withdrawn.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 1, 3, 10, 12, 23, and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by (US 5,870,473) Boesch et al, hereafter Boesch.

With respect to claims 1, 10, and 23, Boesch teaches, A data processing method performed in a data processing system for determining a preferred currency for association with a payment card transaction between a merchant and a payment card

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cardholder, said method including the steps of; obtaining the card number of the payment card (col. 11, lines 26-65, fig. 4K, and fig. 5H); in said data processing system, identifying an identifier code from said card number (col. 12, lines 16-18 ("BIN" – identifier code)), determining the operating currency for said identifier code by comparing said identifier code with entries in a table wherein each entry in said table contains an issuer identifier code or range of issuer identifier codes and a corresponding currency code (col. 12, line 50-col. 13, line 10), and setting the currency for association with the payment card transaction as the determined operating currency for the identifier code (col. 14, lines 17-30).

With respect to claim 10, Boesch further teaches, means for obtaining the card number of the payment card from the cardholder (col. 16, lines 43-67 and col. 17, lines 40-44).

With respect to claim 23, Boesch teaches, A computer program encoding a set of computer instructions for use in a computing device (col. 30, lines 13-21). However, it would have been inherent to the computer system to have a computer program encoding a set of computer instructions for use in a computing device since a computer program is a set of instruction for telling a computer what to do and the encoding is merely a means of producing a unique combination of bits (a code) in response to an analog input signal.

With respect to claims 3, 12, and 25, Boesch teaches, A method according to claim 1, wherein the preferred currency is set to a default currency of the merchant

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when no operating currency can be determined for the identifier code (col. 13, lines 3-33).

6. Claims 4-8, 13 -16, and 26-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,870,473) Boesch et al, hereafter Boesch in view of (EP 0251619) Boston.

With respect to claims 4, 13, and 26, Boesch failed to teach, wherein the cardholder is prompted as to whether the transaction is to be conducted in the preferred currency, including the steps of converting the transaction amounts to equivalent amounts in the preferred currency and presenting these amounts for review by the cardholder. Boston teaches, wherein the cardholder is prompted as to whether the transaction is to be conducted in the preferred currency, including the steps of converting the transaction amounts to equivalent amounts in the preferred currency and presenting these amounts for review by the cardholder (page 5, paragraphs 3 & 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have wherein the cardholder is prompted as to whether the transaction is to be conducted in the preferred currency, including the steps of converting the transaction amounts to equivalent amounts in the preferred currency and presenting these amounts for review by the cardholder and to modify in Boesch because such a modification would allow Boesch to have the transaction amount expressed in the foreign currency using the associated conversion rate.

With respect to claims 5 and 27, Boesch failed to teach, wherein at least one of the transaction amounts is converted to an equivalent amount in the preferred currency and is presented to the cardholder. Boston teaches, wherein at least one of the transaction amounts is converted to an equivalent amount in the preferred currency and is presented to the cardholder (page 5, paragraph 4 and page 6, paragraphs 1 and 2 (display screen)). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have wherein at least one of the transaction amounts is converted to an equivalent amount in the preferred currency and is presented to the cardholder and to modify in Boesch because such a modification would allow Boesch to have the transaction amount expressed in a foreign currency and entered through the data entry means and compared to the converted transaction limit to determine if the transaction should be approved. Page 6, paragraphs 1 and 2 teach a display.

With respect to claims 6, 15, and 28, Boesch failed to teach, further comprising the step of presenting an exchange rate to the cardholder, said exchange rate corresponding to a rate between the merchant's currency and the preferred currency. Boston teaches, further comprising the step of presenting an exchange rate to the cardholder, said exchange rate corresponding to a rate between the merchant's currency and the preferred currency (page 5, paragraph 4 and page 11, paragraphs 2 and 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the step of presenting an exchange rate to the cardholder, said exchange rate corresponding to a rate between the merchant's currency and the

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preferred currency and to modify in Boesch because such a modification would allow Boesch to have the issuer to be supplied with the cardholder's name, account number, and the countries to which the cardholder will be traveling and then the issuer will generate a conversion rate.

With respect to claims 7 and 29, Boesch failed to teach, wherein the transaction details in the merchants currency are also presented to the cardholder. Boston teaches, wherein the transaction details in the merchant's currency are also presented to the cardholder (page 11, paragraph 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the transaction details in the merchant's currency are also presented to the cardholder and to modify in Boesch because such a modification would allow Boesch to have a favorable rate which is unlikely to be reached in a given time period.

With respect to claims 8, 16, and 30, Boesch failed to teach, further comprising the step of initially checking to determine if the transaction amount exceeds a predetermined minimum level for processing in an alternative currency to that of the merchant's currency. Boston teaches, further comprising the step of initially checking to determine if the transaction amount exceeds a predetermined minimum level for processing in an alternative currency to that of the merchant's currency (page 11, paragraphs 3 and 4 and page 12, paragraphs 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the step of initially checking to determine if the transaction amount exceeds a predetermined minimum level for processing in an alternative currency to that of the merchant's

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currency and to modify in Boesch because such a modification would allow Boesch to have a conversion rate that does not have to be exact since it is not being used to reconcile a transaction and the rate is not used as the basis to transfer funds from the cardholder to the merchant.

With respect to claim 14, Boesch teaches, further comprising means for accepting an indication from the cardholder as to whether the transaction is to proceed in the preferred currency and means for permitting the transaction to be processed in the preferred currency if such an indication is received (col. 13, lines 3-13).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 17-22 and 31-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over (US 5,870,473) Boesch et al, hereafter Boesch and (EP 0251619) Boston in view of (WO 95/12169) Levine et al, hereafter Levine.

With respect to claim 17, Boesch and Boston failed to teach, wherein said data processing system is embodied in a payment card terminal. Lavine teaches, wherein said data processing system is embodied in a payment card terminal (page 9, lines 24-37, page 10, lines 30-37, and page 11, lines 1-12). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a data



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processing system embodied in a payment card terminal and to modify in Boesch because such a modification would allow Boesch to have the capability to look up the entries corresponding to the issuer code and to locate a particular account number.

With respect to claim 18, Boesch and Boston failed to teach, wherein said data processing system is embodied in a central payment router. Lavine teaches, wherein said data processing system is embodied in a central payment router (Fig. 3, element 43, element 50, and element 51). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the data processing system embodied in a central payment router and to modify in Boesch because such a modification would allow Boesch to have the ATM connected to the network via a communications link and to transmit the data relating to the currency and the currency amount.

With respect to claim 19, Boesch and Boston failed to teach, wherein said data processing system is embodied in an authorisation host, optionally in co-operation with another system. Lavine teaches, wherein said data processing system is embodied in an authorisation host, optionally in co-operation with another system (page 8, lines 16-35). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a data processing system embodied in an authorisation host, optionally in co-operation with another system and to modify in Boesch because such a modification would allow Boesch to have a terminal that allows for servicing and control and an ATM that acts as an interchange to a card network.

With respect to claim 20, Boesch and Boston failed to teach, wherein said other system is a payment card terminal or central payment router. Levine teaches, wherein said other system is a payment card terminal or central payment router (Fig. 3 (central payment router link 43, network 51, and ATM 50)). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the other system as a payment card terminal or central payment router and to modify in Boesch because such a modification would allow Boesch to the ATM connected to the network via a communications link and to transmit the data relating to the currency and the currency amount.

With respect to claim 21, Boesch and Boston failed to teach, further comprising means for connecting to a node in a computer network. Lavine teaches, further comprising means for connecting to a node in a computer network (page 8, lines 16-19). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have means for connecting to a node in a computer network and to modify in Boesch because such a modification would allow Boesch to have the processor connected to a network such as a Visanet network.

With respect to claim 22, Boesch and Boston failed to teach, wherein the card number is received via the computer network. Lavine teaches, wherein the card number is received via the computer network (page 4, lines 11-18). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the card number received via the computer network and to modify in Boesch because such

a modification would allow Boesch to have the terminal that a customer uses connected to an intermediate network such as the VisaNet network.

With respect to claim 31, Boesch and Boston failed to teach, wherein the card holder is prompted as to whether the transaction is to be conducted in the preferred currency, including the steps of converting the transaction amounts to equivalent amounts in the preferred currency and presenting an exchange rate to the cardholder, said exchange rate corresponding to a rate between the merchant's currency and the preferred currency. Lavine teaches, A method according to claim 1, wherein the card holder is prompted as to whether the transaction is to be conducted in the preferred currency, including the steps of converting the transaction amounts to equivalent amounts in the preferred currency and presenting an exchange rate to the cardholder, said exchange rate corresponding to a rate between the merchant's currency and the preferred currency (page 11, line 3- page 12, line 4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the card holder prompted as to whether the transaction is to be conducted in the preferred currency, including the steps of converting the transaction amounts to equivalent amounts in the preferred currency and presenting an exchange rate to the cardholder, said exchange rate corresponding to a rate between the merchant's currency and the preferred currency and to modify in Boesch because such a modification would allow Boesch to have any required currency translation performed by the network and to have an ATM that transmits a currency code that shows what the currency is in the ATM.

With respect to claim 32, this dependent claim is rejected for the similar rationale as above for claim 31.

With respect to claim 33, this dependent claim is rejected for the similar rationale as given above for claims 31 and 32.

With respect to claim 34, this dependent claim is rejected for the similar rationale as given above for claims 31-33.

With respect to claim 35, this dependent claim is rejected for the similar rationale as given above for claims 31-34.

With respect to claim 36, this dependent claim is rejected for the similar rationale as given above for claims 34 and 35.

With respect to claim 37, Boesch teaches, A method of operating a data processing system to conduct a financial transaction for the exchange of money provided by a payment card cardholder for a good or service provided by a merchant, said method comprising: obtaining a card number from said payment card (col. 11, lines 26-65, fig. 4K, and fig. 5H); identifying, in said data processing system, an identifier code from said card number (col. 12, lines 16-18 ("BIN" –id code)); and determining an operating currency for said identifier code by comparing said identifier code with entries in a table that associates issuer identifier codes with currency codes and indicating said operating currency as being a preferred currency of exchange for said financial transaction (col. 12, line 50-col. 13, line 10). Boesch failed to teach, receiving a cardholder reply in response to said indicating activity; and completing said financial transaction in response to said receiving activity. Boston teaches, receiving a

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cardholder reply in response to said indicating activity (page 15, paragraph 2 – page 16, paragraph 2); and completing said financial transaction in response to said receiving activity (page 12, paragraphs 2- 4 and Page 16, paragraph 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to receive a cardholder reply in response to said indicating activity; and complete said financial transaction in response to said receiving activity and to modify in Boesch because such a modification would allow Boesch's system to compare the transaction amount that has been entered with the amount of the transaction expressed in the foreign currency.

With respect to claim 38, Boesch failed to teach, A method as claimed in claim 37 wherein: said cardholder reply instructs said data processing system to conduct said financial transaction using said preferred currency; and said completing activity completes said financial transaction using said preferred currency. Boston teaches, A method as claimed in claim 37 wherein: said cardholder reply instructs said data processing system to conduct said financial transaction using said preferred currency (page 12, paragraph 3 –page 15, paragraph 1); and said completing activity completes said financial transaction using said preferred currency (page 15, paragraph 2 –page 16, paragraph 3). It would it have been obvious to one having ordinary skill in the art at the time the invention was made to have the cardholder reply instructs said data processing system to conduct said financial transaction using said preferred currency; and said completing activity completes said financial transaction using said preferred currency and to modify in Boesch because such a modification would allow Boesch's

system to have an approval given and an authorization code to be generated for the transaction amount.

With respect to claim 39, Boesch failed to teach, A method as claimed in claim 38 wherein: said indicating activity additionally indicates a currency exchange rate for converting from a merchant currency to said preferred currency; and said completing activity uses said currency exchange rate in completing said financial transaction. Boston teaches, the indicating activity additionally indicates a currency exchange rate for converting from a merchant currency to said preferred currency (page 14, paragraph 2- page 15, paragraph 3); and said completing activity uses said currency exchange rate in completing said financial transaction Page 15, paragraph 4- page 16, paragraph 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the indicating activity additionally indicates a currency exchange rate for converting from a merchant currency to said preferred currency; and said completing activity uses said currency exchange rate in completing said financial transaction and to modify in Boesch because such a modification in Lavine's system would allow Boesch to allow the cardholder to enter an amount of the transaction in the currency selected and to convert from a merchant currency to the customer's preferred currency.

With respect to claim 40, Boesch failed to teach, A method as claimed in claim 38 wherein said indicating activity additionally indicates a first amount of money for said financial transaction using a merchant currency and a second amount of money for said financial transaction using said preferred currency. Boston teaches, wherein said

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indicating activity additionally indicates a first amount of money for said financial transaction using a merchant currency and a second amount of money for said financial transaction using said preferred currency (page 10, paragraph 3- page 11, paragraph 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the indicating activity additionally indicates a first amount of money for said financial transaction using a merchant currency and a second amount of money for said financial transaction using said preferred currency and to modify in Boesch because such a modification would allow Boesch's system to have the transaction converted from the base currency in one amount and converted to the selected foreign currency in that foreign currencies amount.

### ***Response to Arguments***

9. Applicant's arguments filed 3/20/06 have been fully considered but they are not persuasive.

Issue no. 1: Applicant argues: Applicant respectfully requests the Examiner to note that the present application has now been pending for well over 5 years and that the current Office Action is the third office Action and examination undertaken in this matter and the Examiner is further, respectfully, requested to note the guidelines under which patent examiners are required to operate as set forth in MPEP 706, namely that "the Examiner should never overlook the importance of his or her role in allowing claims which properly define the invention," and MPEP 707.07 (g), namely that "[p]iecemeal examination should be avoided as much as possible has been considered. Response: Applicant's point is well taken. Applicant apparently does not understand the process in

the area of Business Methods. Business Methods is not like any other area of the Patent Office. It is not unusual for an application to take more than five years and more than three office actions because the Office will not allow the Examiner to issue a patent with overly broad claims. The claim limitations must particularly point out and distinctly claim that which Applicant regards as his invention.

Issue no. 2: Applicant argues: Boesch is less relevant than Boston and Levine, at best, teaches precisely the same sort of currency determination that is disclosed by Boston and Levine and over which Applicant's claimed invention is an improvement has been considered but is not considered persuasive. Response: How in the claim limitations is Applicant's invention an improvement over Boesch, Boston, and Lavine? Applicant is respectfully requested to point out and to distinctly claim in the claim limitations Applicant's improvement over the cited references.

Issue no. 3: Applicant argues: While the Office Action alleges that Boesch teaches a payment card transaction, this allegation is a distortion and misrepresentation of that which Boesch actually teaches and such distortion and misrepresentation provide strong evidence of the inappropriate use of hindsight in performing a patentability analysis, where that which Applicant teaches (rather than the prior art teaching is used against the Applicant has been considered but is not persuasive. Response: In response to applicant's argument that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was



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within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

Issue no. 4: Applicant argues: Boesch fails to disclose or suggest the claim limitations of claim 1 and claim 1 recites and element that specifies how to set the currency, the setting of a currency for association with a merchant/payment card cardholder transaction has been considered but is not persuasive. Response: It is unclear from the claim language how the currency is set? Is the currency set by the identifier code or by some other means? Applicant is respectfully requested to clarify in the claim language how this takes place and to particularly point out to the Examiner.

Issue no. 5: Applicant argues: Nothing in the cited passages of Boesch indicates how to satisfy the conflict when two currencies do not match has been considered but is not persuasive. Response: There is nothing found in Applicant's claim limitations that indicates how to satisfy a conflict when two currencies do not match.

Issue no. 5: Applicant argues: The Boesch reference adds nothing to the teaching of Boston or Levine and in fact, Boesch teaches away from Applicant's claimed invention by again teaching the same merchant-preferred currency technique that is the source of the problem Applicant's invention is aimed at solving has been considered but is not persuasive. Response: According to the claim interpretations, for example, my payment card number is given (obtained) and the identifier code is identified from the card number, then the operating currency according to the identifier code from the

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payment card is compared with an identifier code in a table which corresponds to a currency code then the currency is set to be associated with the payment card transaction according to the currency determined for the identifier code. The claim limitations do not claim the customer or the merchant determines the transaction currency. Therefore, it is interpreted that either the customer or the merchant can determine the currency conversion. Applicant's claim limitations are not claim what Applicant considers to be the main invention. If the customer sets the currency, the claim needs to distinctly and particularly claim that it is the customer and not the merchant who sets the currency.

Conclusion: The Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the Specification (see below):

**>CLAIMS MUST BE GIVEN THEIR BROADEST REASONABLE INTERPRETATION**

During patent examination, the pending claims must be "given the broadest reasonable interpretation consistent with the specification." Applicant always has the opportunity to amend the claims during prosecution and broad interpretation by the examiner reduces the possibility that the claim, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541,550-51 (CCPA 1969). The court determined that to read a claim in light of the specification, to thereby interpret limitations explicitly recited in the claim, is a quite different thing from 'reading limitations of the specification into a claim,' to thereby narrow the scope of the claim by implicitly adding disclosed limitations which have no express basis in the claim. "The court found that applicant was advocating the latter, e.g., the impermissible importation of subject matter from the specification into the claim.).<

Applicant is respectfully requested to point out the inventive concept to the Examiner in the claim language and to claim that which is considered to be the inventive concept in the claim language.

### **Conclusion**

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### **Inquiries**

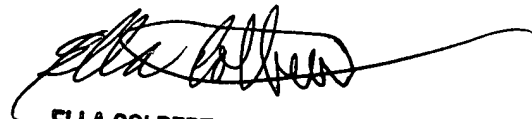
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 571-272-6741. The examiner can normally be reached on Tuesday-Thursday, 6:30AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 571-272-6747. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

May 29, 2006



ELLA COLBERT  
PRIMARY EXAMINER